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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,603	01/24/2002	Hideki Ito	9333/284	2928

7590 10/27/2004

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EXAMINER

DINH, TAN X

ART UNIT	PAPER NUMBER
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2653

DATE MAILED: 10/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/057,603

Applicant(s)

ITO, HIDEKI

Examiner

TAN X. DINH

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 15-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1) The amendment filed 8/02/2004 is acknowledged.

2) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3) Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over KELLER et al (6,587,404).

KELLER et al discloses an audio device and method for managing track files as claimed in claims 1,9 and 13, comprising a display (Fig.4, display 46; Fig.7, display device 46 on front bezel 44), a read out unit for reading out track files recorded on a recordable medium (Fig.4, audio track files are read out from data storage structure 106), wherein the recordable medium is an optical disk that contains at least one session, and a session is formed each time writing is performed and includes one or more track files (plurality of sessions are inherent in every recordable optical disk (CD-R, DVD-R, DVD-RW, etc.,) and a session is formed each time writing is performed, the session includes one or more track files. The well known sessions recording in optical recordable disk is shown in ITO et al (US 6,243,340), figure 4; ITO et al (US 6,631,107), figure 2; MURATA et al, (US

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6,621,783), figure 5; MISAIZU (US 6,594,214), figure 5; HASHIMOTO (US 6,370,096), figure 4 and MURATA (US 6,363,040), figure 4), a controller which manages the track files recorded on the recordable medium in each session and which displays the session containing the file of an arbitrary track on the display (Fig.4, CPU 94; Fig.7, display 46 displays session 200 containing the file of an arbitrary track. See also column 15, line 1 to column 16, line 59), except that recordable medium is magnetic disk (column 23, lines 18-27) rather than optical disk. Examiner take Official Notice the fact that optical recordable disk is known in the recording art to be equivalent to magnetic disk for storing information data (both of them capable of recording and storing information data). To substitute optical recordable disk in KELLER et al for the disclosed magnetic disk would have been an obvious functional equivalent.

As to claim 2, KELLER et al shows the name of virtual disk corresponding to the session containing the file of the arbitrary track on the display (Fig.7, name of virtual disk is ``METALLICA``).

As to claims 3 and 4, KELLER et al shows the track files is compressed by MP-3 format (column 21, line 50 to column 22, line 7).

Claim 11 adds to claim 1 the feature of virtual disk corresponding to the session containing the file of the arbitrary

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track on the display, which is shown in KELLER et al's figure 7, virtual disk is "METALLICA ", and a session can be selected manually by a user by operating a next-disk key or previous-disk key of the audio device, which is shown in KELLER et al's figure 2, manually control keys 45 and 49.

Claims 5,10,12 and 14 add to claim 1 the feature of playing back the track file recorded at latest session. It would have been obvious to someone within the level of skill in the art at the time of the invention was made to play back the latest recorded track in KELLER et al's optical recording and playing device. The rationale is as follows: it has been well known and generally recognized in the art that the tracks recorded on CD or any recordable medium are capable of playing back at any directions, any sequences, randomly or selected as play-list (these features are inherent in every optical disk player, which also shows in KELLER et al's figure 2, manually control keys 43,45,47,49,50). Therefore, one of ordinary skill in the art at the time of the invention was made would have been motivated to playing back the track recorded at latest session in KELLER et al's disk player as claimed.

As to claim 6, KELLER et al shows how to change the session and the tracks in the session in figures 10-12.

As to claim 7, since the audio player of KELLER et al capable of playing back track files recorded in MP-3 format, the decoder is inherent in KELLER et al's audio player.

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As to claim 8, KELLER et al shows a D/A converter in figure 4, 92.

4) Applicant's arguments filed 8/02/2004 have been fully considered but they are not persuasive.

First, applicant states that the prior art of KELLER et al shows " the data storage structures 106 should be "solid state" types of memory (col. 9, lines 24-33), thereby teaching away from the use of an optical disk as a data storage structure 106 ". Applicant is directed to KELLER et al's column 23, lines 18-27 which suggests to use data storage structures 106 as hard-disk having capacity larger than 8.4GB. It is well known in the recording art that magnetic hard-disk and optical recordable disk are equivalent and perform the same functions with each other, for example, recording and storing information data. Clearly, the data storage structures 106 should not be "solid state" types only as applicant argued.

Second, applicant states that " Applicant also has amended the independent claims to clarify that the optical disk (or CD-R) contains at least one session, where a session is formed each time writing is performed and includes one or more track files (see, e.g., application at pg. 2, lines 20-21', pg. 4, lines 13-18). Keller, on the other hand, does not describe or suggest a relevant recordable medium in which the sessions are defined by the times that writing is performed ". As indicated on paragraph (3) above with a lot of conventional recordable medium arts (in ITO et al (US 6,243,340),

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figure 4; ITO et al (US 6,631,107), figure 2; MURATA et al, (US 6,621,783), figure 5; MISAIZU (US 6,594,214), figure 5; HASHIMOTO (US 6,370,096), figure 4 and MURATA (US 6,363,040), figure 4), the recordable medium always comprises a plurality of sessions, each session includes one or more track files and the session is formed each time writing is performed. This is a format of all recordable medium (optical or magnetic recordable medium). To use this old and well known format in KELLER et al as claimed is deem obvious to someone within the level of skill in the art.

Third, the feature of virtue disk and manually selecting using keys are shown in KELLER et al's figure 2, keys 45,47 and 49.

For those reasons, the claims are still rejectable as shown above.

5) Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire *THREE MONTHS* from the mailing date of this action. In the event a first reply is filed within *TWO MONTHS* of the mailing date of this final action and the advisory action is not mailed until after the end of the *THREE-MONTH* shortened statutory period, then the shortened statutory period will expire

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on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than *SIX MONTHS* from the date of this final action.

6) The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (See form PTO-892 attached herein).

Applicant is reminded that in amending in response to a rejection of claims (if the rejection involves with any applicable arts), the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objection made. Applicant must also show how the amendments avoid such references and objections. See 37 CFR §1.111(c).

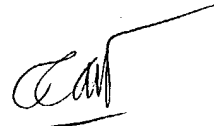
7) Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAN X. DINH whose telephone number is (703) 308-4859. The examiner can normally be reached on Monday - Friday, 8:00AM - 5:30PM.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).



TAN DINH
PRIMARY EXAMINER
October 25, 2004